

Fact Sheet

U.S. Department of Labor
Employee Benefits Security Administration
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Orphan Plans And Your 401(k) Retirement Benefits

The Labor Department's Employee Benefits Security Administration (EBSA) administers the federal law dealing with retirement, health and other benefit programs sponsored by private-sector companies. EBSA has an enforcement program to assist workers who cannot get in touch with persons responsible for managing and operating their 401(k) plans and ensure that workers gain access to their 401(k) retirement benefits.

What is an orphan plan?

- ?? 401(k) retirement plans may become "orphan" when there is no one with authority operating the plan due to death or absence of the persons designated as fiduciaries, neglect to appoint successor fiduciaries, and corporate mergers or bankruptcies.
- ?? The warning signs of an orphan 401(k) plan include:
 - o An employer who files for bankruptcy or merges with another company without first winding up the business affairs of a plan;
 - o Employees who stop receiving information, such as monthly or quarterly account statements, from the plan of a former employer;
 - o Employees who find themselves unable to contact their 401(k) plans or obtain benefits.

Protecting Workers' Benefits

- ?? The Department has a national enforcement project on orphan plans to protect workers who are at risk of losing their retirement benefits.
- ?? EBSA connects workers with their retirement savings from abandoned 401(k) plans by:
 - o Locating plan fiduciaries with authority to manage the plan;
 - o Requiring responsible plan fiduciaries to fulfill their duties, including federal filing requirements and distributing benefits owed to plan participants;
 - o Identifying and penalizing plan officials who fail to carry out their responsibilities;
 - o Obtaining a court-appointed fiduciary to oversee the orphaned plan, distribute the assets to eligible workers and their families, and if necessary, terminate the plan.
- ?? The agency also works with other federal agencies including the Internal Revenue Service and Pension Benefit Guaranty Corporation to help both individuals and financial institutions who may wind up as caretakers of orphan plans by default by streamlining the process of plan termination and distribution of assets.

Orphan Plan Enforcement Results

- ?? Since the project began in fiscal year 2000, the Department has:
 - o Helped return \$228.5 million to workers and plans
 - o Opened 843 civil and criminal investigations
 - o Located existing plan fiduciaries to take over management of plans, and
 - o Obtained appointment of 74 independent fiduciaries to wind down plan operations and distribute retirement benefits to participants.
- ?? In one recent case, the Department obtained the appointment of an independent fiduciary to manage and distribute approximately \$236,000 in assets to 65 participants of a retirement plan for law enforcement and security officers. The independent fiduciary conducted an accounting of plan assets, collected outstanding contributions owed to the plan, verified who was eligible to receive benefits and obtained court permission to make distributions.

Contact Information

If you think your plan has been abandoned, contact EBSA by calling the toll-free number at 1-866-444-EBSA (3272) or by email at www.askebsa.gov. Other publications about retirement benefits are accessible through the toll-free number or online at www.dol.gov/ebsa under Publications/Reports.